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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/689,399	10/20/2003	Guido Bonelli	9390	2879

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EXAMINER

WATKINS III, WILLIAM P

ART UNIT

PAPER NUMBER

1772

DATE MAILED: 07/14/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/689,399

Applicant(s)

BONELLI, GUIDO

Examiner

William P. Watkins III

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 April 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

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DETAILED ACTION

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

2. Claims 1-2, 4, 5, 7, 11, 12, 14, 15, 17 are rejected under 35 U.S.C. 102(b) as being anticipated by Ciammaichella et al. (U.S. 6,436,508).

See the abstract, col.8, lines 30-45, and col. 9, lines 10-55, for a description of an apertured three dimensional sheet with a material, which occludes the apertures when exposed to liquid. The sheet can be attached to multiple layers and be part of the backsheet of an absorbent article.

3. Claims 1-2, 4, 5, 7, 11, 12, 14, 15, 17 are rejected under 35 U.S.C. 102(a) as being anticipated by Kauschke et al. (U.S. 2003/0161995 A1).

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See sections 0014 and 0002 and Figures 1-5, for a description of an apertured three dimensional sheet with a material, which occludes the apertures when exposed to liquid. The sheet can be attached to multiple layers and be part of the backsheet of an absorbent article. The examiner takes an aperture through a flat sheet as meeting the instant language of a three dimensional web with fluid passageways that have sidewalls.

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 3, 6, 8-10, 13, 16, 18-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ciammaichella et al. (U.S. 6,436,508) or Kauschke et al. (U.S. 2003/0161995 A1).

Ciammaichella et al. (col. 5, line 45 through col. 6, line 10) and Kauschke et al. (section 0019) teaches use of cellulose derivatives and various other water swellable compounds. The

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instant invention claims use of cellulose derivatives as water swellable compounds and the water swellable material being either in or extending out from the apertures of the claimed sheet. It would have been obvious to one of ordinary skill in the art to have selected cellulose derivatives from those taught by Ciammaichella et al. or Kauschke et al. in order to fully practice the inventions of the cited references. It further would have been obvious for the swellable material to extend or be not visible in the apertures of the sheets of the references depending on the material loading and if the material has been exposed to liquid. The amount of material depends on the anticipated fluid loading, size of the passage to be blocked and closure rate required. Applying the swellable material by coating, co-extrusion or other known method of joining materials would have been within the ordinary skill of the art.

6. Applicant's arguments filed 27 April 2005 have been fully considered but they are not persuasive.

Applicant argues that neither the coated blocking layer of Ciammaichella et al. nor the intermediate blocking layer of Kauschke et al. meet the instant claim language that calls for fluid pervious polymeric web that comprises an occluding

material which causes a mechanical change in said side walls. Applicant's sidewall language is not limited to a single homogeneous layer comprised of polymeric binder and blocking materials mixed and extruded as a single layer not associated with any other layer. Figure 4 clearly shows the sidewall element 46 as comprised of an occluded portion (element 58) that is distinct from the rest of the sidewall structure. The coated layer of Ciammaichella et al. is clearly similar to this structure and read upon by the instant claim language, which does not prohibit the sidewall from being comprised of sublayers. The polymeric binder coating on the film layer of Ciammaichella et al. is clearly not excluded by the instant broad language. Neither is the interior sidewall structure of Kauschke et al., which comprises end portions of polymeric film material and middle portions of expandable material which may be polymers, excluded by the instant claim language. As the blocking materials of the sidewalls of the references are part of the sidewalls of the instant claims as constructed, they modify the mechanical structure of the sidewalls when they are contacted with liquid as instantly claimed. The examiner takes the web of Kauschke et al. which has a thickness that varies at

least at the perforations as being a three dimensional structure.

7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to William P. Watkins III whose telephone number is 571-272-1503. The examiner works an increased flex time schedule, but can normally be reached Monday through Friday, 11:30 A.M. through 8:00 P.M. Eastern Time. The examiner returns all calls within one business day unless an extended absence is noted on his voice mail greeting.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Harold Pyon can be reached on 571-272-1498. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



WW/ww

July 11, 2005

WILLIAM P. WATKINS III
PRIMARY EXAMINER